THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

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WRIT PETITION NO.21856 of 2001

5th February 2007

Between:

1. M.Somasekhara Rao, S/o.M.Veeraprakasa Rao, 64 years, Pensioner, R/o.224, Kamalapuri Colony, Hyderabad.

And 11 others.

...PETITIONERS

AND

1. Government of Andhra Pradesh, rep.by its Principal Secretary, Revenue Department, Secretariat Buildings, Hyderabad.

And five others.

...RESPONDENTS

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO.21856 of 2001

ORDER: (Per the Hon'ble Mr Justice B.Prakash Rao)

Heard Sri B.V.Rama Mohan Rao, learned counsel appearing on behalf of the petitioners and the learned Government Pleader for Revenue (Assignment) appearing on behalf of the respondents.

Aggrieved by the judgment and decree dated 30.08.2001 in L.G.C.No.166 of 1996 on the file of the Special Court under A.P. Land Grabbing (Prohibition) Act, 1982 ('the Court below' for brevity), where under the petitioners sought a declaration of their ownership and delivery of possession of the schedule land as against the

respondents-constituting various authorities including private respondents, the present Writ Petition is filed.

After hearing the learned counsel on either side

and on perusal of the material in depth, it is seen that, admittedly, this is a case in regard to identity of the property as claimed by both the sides. Though on perusal of the entire proceedings and the orders, it is seen that during the course of enquiry, where evidence has been let in by both the sides, an exercise was made to make a local inspection by the authorities concerned, on perusal of those reports, it is as vague as possible as it is neither answered nor specifically pointed out the identity of the land as claimed by both the sides. Even on perusal thereof, it is seen that there is no proper exercise by the said authority taking note of the very objections or claims vis-à-vis the description and particulars of the property. In view of the same, we desire that another exercise can be made with proper assistance from all quarters so as to resolve the dispute. Therefore, without going into the merits of the case and not giving any findings as such on either of the claims, we deem it more appropriate that the matter should be remitted to the

Court below.

Accordingly, the Writ Petition is allowed and the order dated 30.08.2001 in L.G.C.No.166 of 1996 is set aside. The matter is remitted to the Court below for fresh disposal in accordance with law. No costs.

We direct the Court below to appoint a Commission to make local inspection of the schedule land, consisting of a Junior Civil Judge having jurisdiction over the suit schedule area to be the Commissioner along with the assistance of an Assistant Director to be nominated by the Director of Survey and Land Records, Government of Andhra Pradesh, Hyderabad and one representative on behalf of the petitioners herein namely Sri M.Rami Reddy, Retired Assistant Director, as a part of the Commission who, shall make local inspection along with the assistance of the entire Revenue officials concerned and the Survey officials, apart from taking assistance of any other officials including the Police etc., and submit a report before the Court below. It is needless to mention

that both the sides are entitled to file their work memos, which shall form part of consideration. The entire exercise shall be completed within a period of three months from today. Both the parties are at liberty to file their respective objections and the same would be considered on merits and accordingly, the main case would be disposed of after giving notice and opportunity to both the sides.

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(B.PRAKASH RAO, J)

(M.VENKATESWARA REDDY, J)

5th February 2007
RRB

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